

Commonwealth of Kentucky
Before the Public Service Commission

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**PUBLIC SERVICE
COMMISSION**

In the Matter of:

APPLICATION OF AIRVIEW ESTATES, INC.)

FOR AN ALTERNATIVE RATE ADJUSTMENT)

Case No. 2003-00494

ATTORNEY GENERAL'S
WRITTEN COMMENTS

The Attorney General, pursuant to the 11 March 2004 Order of the Public Service Commission, files his written comments in response to the report of Commission Staff.

The Staff Report recommends a "surcharge." Close examination indicates that the "surcharge" is a regulatory device to collect funds for certain system repairs, and the utility's control over the funds is not irrevocable. The utility can be made to refund, with interest, the funds collected in the event that the utility fails to comply with the Commission's requirements relating to the system repairs.

The device, which does not include a return component, is being established in an application for an adjustment in rates under KRS 278.180. (The Staff Report does not identify a separate statutory basis - e.g. KRS 74.395 or KRS 278.183 - for its imposition.) After consideration of the language of the Staff Report (as well as the remedial purpose for the use of this device), the Attorney General submits that the use of this mechanism requires some additional features.

The Commission Order should be clear that this mechanism is being put into place as part of an application for a change in rates (under KRS 278.180); therefore, there

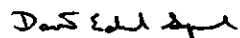
can be no change in the special collection amount until an order resulting from an another application for a change in rates pursuant to KRS 278.180 or an order resulting from an investigation pursuant to KRS 278.260. Also, because this is a rate resulting from an application pursuant to KRS 278.180, the device is subject to complete review in any other applications under KRS 278.180 that the utility may seek during the time period when the mechanism is in place.

The Order should include a duty upon the utility to file an application under KRS 278.180 for the elimination of the rate at the end of the 36-month period or the collection of the \$118,990. Finally, the collection amount should appear as a line item on the customers' bills.

WHEREFORE, the Attorney General submits his Written Comments and asks that the Commission incorporate his requests in its Order for this case.

Respectfully submitted,

GREGORY D. STUMBO
ATTORNEY GENERAL



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Certificate of Service and Filing

Counsel certifies that an original and ten photocopies of the Written Comments of the Attorney General were served and filed by hand delivery to Thomas M. Dorman, Executive Director, Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky 40601; furthermore, it was served by mailing a true and correct of the same, first class postage prepaid, to Fred Schlatter, Airview Estates, Inc., 10411 Forest Garden Lane, Louisville, Kentucky 40223, all on this 26th day of March 2004.

David Edward Spaul
Assistant Attorney General